In the High Court of Judicature at Madras

Dated: 05.12.2006

Coram:

The Honourable Mr.Justice P.SATHASIVAM
and
The Honourable Mr.Justice S.TAMILVANAN

Writ Petition No.43724 of 2006
and M.P.No.2 of 2006

1. R.Srinivasan
2. Vatsala Srinivasan ..Petitioners

..vs..

1. The Commissioner,
   Corporation of Chennai,
   Ripon Buildings,
   Chennai-600 003.

2. The Member Secretary,
   Chennai Metropolitan
   Development Authority,
   Egmore,
   Chennai-600 008.

3. K.P.Lakshminarayanan ..Respondents

Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the notice dated 16.10.2006 issued under Section 256(3) of the Chennai City Municipal Corporation Act 1919, vide No.9301 confirming the Provisional Notice issued under Section 256(1) of the Chennai City Municipal Corporation Act 1919, vide No.7406 dated 25.09.2006 and quash the same.

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For Petitioners : Mr.R.Kannan

For Respondents : Mr.E.R.K.Moorthy for R1
Mr.J.Ravindran for R2
Mr.M.S.Ramesh for R3

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ORDER

(Order of the Court was made by P.SATHASIVAM,J.,)

By consent of all the parties, the main writ petition is taken up for final disposal.

2. Aggrieved by the Notice dated 16.10.2006 issued under Section 256(3) of the Chennai City Municipal Corporation Act, 1919, vide No.9301 confirming the Provisional notice issued under Section 256(1) of the said Act, vide No.7406 dated 25.09.2006, the petitioners have filed the above writ petition.

3. Heard the learned counsel for the petitioners as well as the respondents including the contesting third respondent.

4. The main grievance expressed by the learned counsel for the petitioners is that after the receipt of the show cause notice dated 25.09.2006, the 1st petitioner, viz., R.Srinivasan submitted a detailed representation to the Commissioner of Corporation of Chennai on 13.10.2006. The said representation is available at pages 45 to 47 of the typed set filed by the petitioners. According to the learned counsel for the petitioners, in spite of the same, the final notice under Section 256(3) of the said Act had been issued by the Commissioner on 16.10.2006, without adverting to the points raised in the representation dated 13.10.2006. Learned counsel further points out that in similar circumstances, particularly in respect of the same premises, at the instance of one T.Kolappan, by an order dated 09.11.2006 in W.P.No.43115, this Court quashed the similar notice and permitted the 1st respondent, Commissioner, Corporation of Chennai, to pass fresh orders, after considering the representation of the first petitioner dated 13.10.2006 in accordance with law.

5. We perused the order dated 09.11.2006 passed by us in W.P.No.43115 of 2006. We also perused the show cause notice, representation as well as the final notice dated 16.10.2006 in the case on hand. In view of the fact that even in the notice dated 16.10.2006, the 1st respondent has not considered the representation / explanation of the petitioners, without going into the merits of the claim made by the parties, as ordered in the order dated 09.11.2006 in W.P.No.43115 of 2006, while quashing the notice dated 16.10.2006, we permit the 1st respondent to consider the representation of the first petitioner dated 13.10.2006 and pass fresh orders, in accordance with law, after affording an opportunity to both parties concerned. It is made clear that if the action of the petitioners is contrary to the sanctioned plan, the Officer is free to pass appropriate orders in accordance with law. The same has to be completed within a period of eight weeks from the date of receipt of a copy of this order.

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Writ petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

gl

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Commissioner,
   Corporation of Chennai,
   Ripon Buildings,
   Chennai-600 003.

2. The Member Secretary,
   Chennai Metropolitan
   Development Authority,
   Egmore,
   Chennai-600 008.

1 cc to Mr.M.S. Ramesh, Advocate sr 60041

1 cc to Mr. R. Kannan, Advocate sr 60029

1 cc to Mr.E.R.K. Moorthy, Advocate sr 60609

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